IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPLICATION (L) NO.929/2006 IN C.P. NO.103/2002

A. S. Oamerbhoy. ..Applicant.

Vs.

Majid A. Oamerbhoy and ors. ..Respondents.

Mr. Mukul Taly i/by S. Mohomedbhai & Co. for the applicant.

Mr. R. Peermohideen i/by Thakore Jeriwala & Associates for the Respondent Nos. 1 to 3.

Ms. T.A.Saria i/by S.K.Srivastav & Co. for the respondent No.4.

CORAM : R.S. MOHITE,J.
DATED : 19TH OCTOBER,2006.

P.C.

1. The Advocate for the applicant seeks leave to delete the respondent Nos. 5 to 8. He is permitted to delete these respondents at his own risk.

2. This is an application for grant of leave under Section 446 of the Companies Act, 1956 to continue the application No.5 of 2001 before the Company Law Board against the respondents and for leave to implead the Official Liquidator, High Court, Bombay as provisional liquidator of the company in the said application before the Company Law Board. It appears that the Application

No.5/2001 has been filed before the Company Law Board for rectification of register of members and to delete the names of respondent Nos. 3 and 4 as holders of 2700 shares of the company and for certain other reliefs as set out in the affidavit in support of this application. It is sought to be contended on behalf of the respondent Nos. 1 to 3 that if the winding up petition is ultimately allowed then the application No.5 of 2001 before the Company Law Board will become infructuous and will no longer survive. Be that as it may, I am inclined to allow this application in terms of prayer clause (a) to (c) subject to the condition that the decision of the Company Law Board will be subject to the decision of this court. The Advocate for the respondent Nos. 1 to 3 states that he should be granted liberty to obtain a stay of Company Application No.5/2001. That is for the Company Law Board to decide and no leave of such kind can be granted by this court. Application stands disposed off. Amendment to be carried out immediately.

(R. S. MOHITE, J.)